

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Deion L. Sweeting,

Plaintiff,

v.

Case NO. 2:13-cv-941

Noble Correctional Institution,
et al.,

Defendants.

ORDER

Plaintiff, a former state inmate, brought the instant action under 42 U.S.C. §1983, against the Noble Correctional Institution and ten individual defendants. On April 24, 2014, this action was dismissed due to plaintiff's failure to effect service. The last document filed by plaintiff in this case was his notice of appeal filed on May 6, 2014. On September 24, 2014, mail addressed to plaintiff at the institution was returned to the clerk of courts, indicating that plaintiff had been released on May 16, 2014. Plaintiff did not provide this court with his current address.

By mandate filed on June 29, 2015, the Sixth Circuit Court of Appeals reversed the judgment and remanded the case for further proceedings. On July 16, 2015, the magistrate judge issued a show cause order directing plaintiff to indicate by July 29, 2015, whether he intended to pursue the instant action. The magistrate judge directed the clerk to send this order to the Noble Correctional Institution and to a street address for plaintiff in Cincinnati, Ohio, which was found on the docket of plaintiff's case in the court of appeals. The letter addressed to plaintiff at the Noble Correctional Institution was returned undelivered to the

court on July 29, 2014, but the letter addressed to plaintiff in Cincinnati was not returned. On July 30, 2015, the magistrate judge issued a report and recommendation recommending that this action be dismissed for failure to prosecute. Although the copy of the report and recommendation mailed to the Noble Correctional Institution was returned undelivered to the court, the copy of the report and recommendation mailed to the Cincinnati address was not returned.

The report and recommendation specifically advised plaintiff that objections to the report and recommendation were due within fourteen days, and that the failure to object to the report and recommendation "will result in a waiver of the right to *de novo* review by the District Judge and of the right to appeal the decision of the District Court[.]" Doc. 40, p. 2. The time period for filing objections to the report and recommendation has expired, and no objections to the report and recommendation have been filed.

Accordingly, the court adopts the report and recommendation (Doc. 40). This action is hereby dismissed without prejudice for failure to prosecute.

Date: August 19, 2015

s/James L. Graham
James L. Graham
United States District Judge